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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 LARRY JOSEPH THOMAS,

12 Plaintiff,

13 v.

14 KERN VALLEY STATE PRISON
15 WARDEN, *et al.*,

16 Defendants.

No. 1:24-cv-00005 JLT BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DENYING
PLAINTIFF'S MOTION FOR LEAVE TO
PROCEED *IN FORMA PAUPERIS* BE
DENIED, AND DIRECTING PLAINTIFF TO
PAY THE FILING FEE WITHIN 30 DAYS

(Docs. 2, 8)

17 Larry Joseph Thomas seeks to proceed *in forma pauperis* in this action. (Doc. 2.) The
18 assigned magistrate judge found Plaintiff is subject to the three-strikes bar of 28 U.S.C. §
19 1915(g), after identifying the following cases that were dismissed prior to the filing of this
20 action, for failure to state a claim or as frivolous:

- 21 1. *Thomas v. Pelican Bay State Prison*, Case No. 3:11-cv-04359-EMC (N.D. Cal.)
22 (dismissed for failure to state a claim on June 18, 2012);
23 2. *Thomas v. Valencia*, Case No. 3:19-cv-00774-BAS-MSB (S.D. Cal.) (dismissed as
24 frivolous on August 13, 2019); and
25 3. *Thomas v. Richard J. Donovan*, Case No. 3:19-cv-02181-JAH-RBB (S.D. Cal.)
(dismissed for failure to state a claim on August 28, 2020).

26 (Doc. 8 at 2.) The magistrate judge also found Plaintiff fails to show he was in imminent danger
27 of serious physical injury, such that an exception to Section 1915 applies. (*Id.*) Therefore, the
28 magistrate judge recommended Plaintiff's motion to proceed *in forma pauperis* be denied and

1 that Plaintiff be ordered to pay the filing fee. (*Id.* at 3.)

2 Plaintiff filed a document entitled “Objections to the Magistrate Judges (sic) Findings and
3 Recommendations” on February 2, 2024. (Doc. 11.) Despite the caption, he states: “Plaintiff is
4 now made willing to be ordered to pay the filing fee costs of \$405.00.” (*Id.* at 1.) Moreover,
5 Plaintiff does not object to—or otherwise respond to—the findings of the magistrate judge that
6 he is subject to the three strikes bar and does not satisfy any exception requirements under
7 Section 1915(g). (*See id.*)

8 According to 28 U.S.C. § 636(b)(1)(C), this Court performed a *de novo* review of this
9 case. Having carefully reviewed the matter—including Plaintiff’s response to the Findings and
10 Recommendations—the Court concludes the Findings and Recommendations are supported by
11 the record and proper analysis. Thus, the Court **ORDERS**:

- 12 1. The Findings and Recommendations issued on January 9, 2024 (Doc. 8), are
13 **ADOPTED** in full.
- 14 2. Plaintiff’s application to proceed *in forma pauperis* (Doc. 2) is **DENIED**.
- 15 3. Plaintiff **SHALL** pay the \$405 filing fee in full for this action within 30 days of
16 the date of service of this order.
- 17 4. **Plaintiff’s is advised the failure to comply with this order will result in**
18 **dismissal of this action.**

19
20 IT IS SO ORDERED.

21 Dated: **February 9, 2024**


UNITED STATES DISTRICT JUDGE